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SUBJECT: THAILAND STRENGTHENS LABOR TRAFFICKING GUIDELINES, GAINS
LESSONS FROM FACTORY RAID

BANGKOK 00001063 001.2 OF 003

¶1. (U) Summary: Thai Ministry of Labor officials laid out a series of operational guidelines for handling future labor trafficking cases, drawing from recent TIP cases involving exploitation in the fishing and seafood processing industries. The guidelines grant immunity to TIP victims from prosecution arising from their possible involvement in immigration or prostitution crimes, among others. They also grant migrant TIP victims temporary residence in Thailand pending resolution of criminal or civil court cases against the traffickers. Separately, NGOs generally praised the Thai police's handling of the latest shrimp factory raid on March 10, and provided authorities with a list of lessons learned and improvements for future anti-TIP operations involving labor exploitation. End Summary.

¶2. (U) Thai Ministry of Labor (MOL) officials announced a series of operational guidelines on April 2 to govern future labor trafficking investigations and formalize the MOL's role in multidisciplinary teams responding to TIP cases. The guidelines were discussed at a special conference convened by the Chair of Thailand National Anti-Trafficking Committee, Dr. Saisuree Chutikul, with financial support from the International Labor Organization (ILO).

¶3. (U) Dr. Saisuree, who has long been critical of the MOL's slow pace in coordinating with other RTG offices on TIP cases, praised the recently-appointed Deputy Permanent Secretary, Nakorn Silpa-Archa, for his role in giving labor trafficking a greater priority within his Ministry. Silpa-Archa cited the need to address TIP as a basic human rights concern for both Thai workers going abroad and migrant workers entering into Thailand. Dr. Saisuree placed special emphasis on portions of the USG's 2007 Trafficking-in-Persons Report that emphasized the role of the seafood processing and fishing industries in the trafficking of Burmese laborers.

¶4. (U) The operational guidelines themselves lay out a series of procedures for labor officials to take, in conjunction with the police, the Ministry of Social Development and Human Security (MSDHS), and other ministries to ensure that TIP victims are accorded appropriate protection under the new anti-trafficking law to take effect June, 2008. The guidelines require MOL officials to guarantee the protection of children of trafficked workers, who should not be separated from family members who are sheltered or in the interview process, and to treat stateless non-Thai residents (such as hill tribe members) as if they are Thai citizens.

¶5. (U) In a further significant development, the guidelines prevent law enforcement authorities from charging TIP victims with any crime relating to their immigration status, their efforts to obtain work

illegally, or their involvement in prostitution. Authorities are also required to give TIP victims temporary residence in Thailand if they are witnesses in future court cases against the traffickers or are awaiting the awarding of civil penalties. These provisions were created, MOL officials said, to prevent TIP victims from being harassed or threatened with prosecution, and to ensure their cooperation in criminal or civil actions against traffickers. (Note: Some of these guidelines were met with dismay from lower-level MOL and police officials, who cited "security" implications of granting immunity to migrants who have violated, or have the intention to violate, Thai laws.)

16. (SBU) Dr. Saisuree told Laboff after the conference that she recognized some of the other procedures might be viewed as lacking in substance. For example, there is no authority for labor inspectors or police to immediately shut down factories or other commercial establishments suspected of TIP transgressions. Furthermore, there were no clear guidelines for police or prosecutors to collect evidence to bring labor TIP cases to trial. However, she said it marked a beginning in RTG efforts to secure greater cooperation from MOL officials who have until recently trailed their counterparts in MSDHS in recognizing the labor component in trafficking cases. She added that guidance for police and prosecutors would be forthcoming in a series of nationwide training seminars based on the new anti-TIP law.

17. (SBU) Dr. Saisuree and Deputy PermSec Silpa-Archa also told Laboff that while they viewed fisheries TIP cases - involving boys and men trafficked onto fishing vessels - as among the worst TIP situations possible, they were encountering difficulties in recent cases in tracking the registrations of vessels in international waters. In these cases, the ownership of certain vessels could not be established, or Thai law did not recognize crimes committed on non-Thai registered ships that were out of Thai ports longer than one year. They requested assistance in learning from USG experience on prosecuting TIP cases on the high seas.

BANGKOK 00001063 002.2 OF 003

LESSONS LEARNED FROM SHRIMP FACTORY RAIDS

18. (U) The conference came as the MOL and Thai NGOs take stock of lessons learned from the latest shrimp factory raid on March 10 (reftel). That raid uncovered 73 Burmese migrant workers at the Anoma factory in Samut Sakhon who were classified as TIP victims due to their confinement on the premises and working conditions that did not meet Thai labor standards on wages, work hours, or health conditions. Another 35 children, under 15 years old, were also found at the premises, although the number of them who actually worked remains unclear.

19. (U) The Labor Rights Protection Network (LPN) in Samut Sakhon, one of the principal NGOs involved in the raid, stated that the raid and its outcome complied with "best practices" for police, government and NGO cooperation that were established after the Ranya Paew factory raid in 2006. Staff at another NGO, FACE, added that they were satisfied with the police's handling of male TIP victims, who were given police protection as "witnesses to trafficking crimes" despite the fact that the new TIP law allowing men to be classified as victims will not formally go into effect until this June. Specific improvements noted by LPN and FACE in the recent raid included the following:

-- The raid was well organized with planning meetings amongst NGOs and 10 different government ministries or law enforcement agencies, with their tasks clearly delineated in advance.

-- Police and social workers separated factory workers from their employers prior to conducting interviews to determine their status.

-- The police and government agencies brought with them 12 Burmese-speaking interpreters to converse with the workers.

-- Interviews were conducted after workers had been removed to a

local police station during the daytime, avoiding the situation in Ranya Paew where workers were questioned well into the night, in full view of their employers who were harassing or intimidating them.

-- Police determined through the interviews that 38 workers had been moved to the Anoma factory illegally and against their will by labor brokers acting on behalf of another factory. These workers were immediately classified as TIP victims.

-- Criminal charges were filed against the employers within 24 hours by the Thai Region 7 police officers who led the raid.

¶10. (U) The NGOs noted that the level of employee abuse in the Anoma case did not match that found in the Ranya Paew case. The employers complied with police requests to cease communicating with their workers during the interview process. There was no evidence of physical abuse, or beatings, found amongst the workers (although evidence of poor health conditions was observed). There were no firearms found on the premises, and the employers did not appear, in the words of one NGO worker, to be "mafia-type" captors who employed physical means of intimidation.

¶11. (U) NGO volunteers said they confirmed that many of the workers (but not all) considered themselves confined to the factory due to locked doors and signs which prohibited their exit from the premises. A proportion of the workers were allowed to leave the premises periodically for grocery shopping and said they did not consider themselves confined. According to FACE, the confined workers were more likely to have been brought to the factory by labor brokers who were still owed a recruitment fee by the owners. Over 75 of the approximately 300 workers were legally registered and opted to remain at the factory voluntarily.

¶12. (SBU) LPN and FACE raised a series of additional concerns that they hope will be addressed in future police anti-TIP operations, namely:

-- Some unregistered workers may have been screened too quickly and dismissed as non-TIP victims, and were taken immediately to police immigration centers. This point is still in dispute due to confusion over the outcome of the Burmese-language interviews. The Thai Region 7 police insist that these workers freely admitted they were not confined to the factory premises and were seeking work illegally.

-- These unregistered workers were removed from the factory without the opportunity to collect their belongings or identification

BANGKOK 00001063 003.2 OF 003

papers. The police say they were later allowed to do so.

-- The factory remains open after the raid. RTG officials continue to claim that Thai law does not allow them to shut down a commercial enterprise until a criminal conviction is obtained against the owners.

¶13. (U) Despite these issues, LPN's director characterized the raid to Laboff as a "case study" in how to conduct an anti-trafficking operation, and that he hoped Thai authorities would act in such a fashion, with the noted adjustments, in future labor TIP investigations.

Entwistle